

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200939005**
Release Date: 9/25/2009

Third Party Communication: Congressional
Date of Communication: June 3, 2009
Person To Contact:

Index Number: 4051.00-00

, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:7
PLR-118520-09
Date:
June 23, 2009

LEGEND:

Taxpayer =

Trailer A =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

Dear _____ :

This replies to a letter ruling request dated March 17, 2009, submitted on your behalf by your authorized representative, with regard to whether certain truck and truck semitrailer bodies that you sell at retail are exempt under § 4053(2) of the Internal Revenue Code (the Code) from the tax imposed by § 4051(a)(1).

Taxpayer designs, manufactures, and sells specialty trailers, primarily to end users (although sometimes to third-party distributors), and primarily customized to the end user's particular anticipated use. Taxpayer manufactures different types of trailers designed and built for different uses. At issue in this case is Taxpayer's Trailer A. Trailer A is specifically designed and built by Taxpayer to haul corn gluten byproducts to farms.

Taxpayer represents that it began marketing and selling "walking floor" trailers to haul corn gluten, which is wet, sticky and corrosive, to farms. The original trailer leaked during transport, resulting in fines and other problems with the Department of Transportation. Also, the product stuck to the sides of the trailer making it difficult to unload. Subsequently, Taxpayer hired an engineer to solve these problems specifically related to hauling corn gluten. The resulting product was Trailer A.

Unlike Taxpayer's other models, Trailer A has a self-unloading conveyor floor that moves the product from the front of the trailer to the rear where it is unloaded through one of several types of doors the customer may choose, including a hydraulic top hinge door, a side swing door with a lower hydraulic flip-up or a lower flip-up door. The sidewalls are made of corrugated aluminum with plastic liners designed to promote quick unloading of the sticky corn gluten. The liners go to the roof of the trailer rather than just covering the sloped walls to ease unloading and cleanup as well as protect the aluminum walls from corrosion. Several other measures have been taken to protect against corrosion including specially built tarps, sealed doors to keep in moisture and special grade rubber for the belt floor.

In addition, the sidewalls of Trailer A are sloped at a degrees, which helps feed the corn gluten out of the back of the trailer (most belt trailers have a b degree slope). The angle of the slope in Trailer A limits the capacity of the trailer. Trailer A has riveted construction instead of less expensive welds to allow it to flex to varying surfaces that it encounters off-road at farms. It is also equipped with a roller/receiver to align latches when the trailer is on uneven surfaces. Trailer A can be manufactured from c to d in length, a width of e or f and a height ranging from g to h. Trailer A has a maximum capacity of i and is mounted on a chassis that is equipped with heavy duty fifth wheels,

suspension subframes and drive systems that are designed to withstand twisting that is encountered in hauling on farms.

Trailer A costs nearly j times the amount, is k pounds heavier and has only approximately l% of the hauling capacity of a similarly sized 42 foot standard hopper semitrailer. The unique design of Trailer A makes it uneconomical to use Trailer A for purposes that do not require the special design elements of Trailer A.

Section 4051(a)(1) imposes a tax on the first retail sale of, among other things, automobile truck bodies and truck trailer and semitrailer bodies.

Section 4053(2) provides that the tax imposed by § 4051 shall not be imposed on any body primarily designed -- (A) to process or prepare seed, feed, or fertilizer for use on farms, (B) to haul feed, seed, or fertilizer on farms, (C) to spread feed, seed, or fertilizer on farms, (D) to load or unload feed, seed, or fertilizer on farms, or (E) for any combination of the foregoing.

Rev. Rul. 69-579, 1969-2 C.B. 200, holds that certain automotive truck bodies equipped with heavy-duty unloading equipment and used primarily for hauling feed, seed, and fertilizer to and on farms, are exempt from the manufacturers tax under § 4063(a)(2)(B) (the predecessor to the § 4053(2) exemption).

Rev. Rul. 69-579 describes truck, trailer, and semitrailer bodies that contain heavy-duty mechanical or pneumatic type unloading equipment specially designed to facilitate unloading on the farm. The unloading equipment is built into, and forms an integral part of the bodies, adding substantially to their cost and weight, and limiting their load-carrying capacity. The mechanical system uses conveyors and augers, and unloads from the top of the body; the pneumatic system uses a blower and hose, and usually unloads from the bottom and rear of the body. Each system is activated by a power take-off from the truck engine. The bodies are usually divided into separate compartments and are either open at the top or completely enclosed. The revenue ruling states that the elaborate and expensive unloading systems built into these bodies, and the modifications of the bodies required to accommodate the unloading systems, make it impracticable to purchase the bodies for use other than in hauling feed, seed, or fertilizer to, and unloading it on, farms. The revenue ruling concludes that the bodies are primarily designed to haul and unload feed, seed, or fertilizer on farms, and are exempt from the manufacturers tax by virtue of the § 4063(a)(2)(B) exemption.

Rev. Rul. 75-462, 1975-2 C.B. 419, provides that highway bodies that are used for the general hauling of feed, seed, or fertilizer over the highway are subject to the manufacturers excise tax unless they have specific features that indicate they are primarily designed to haul feed, seed, or fertilizer to and on farms.

Rev. Rul. 2004-80, 2004-2 C.B. 164, addresses the definition of the term "primarily designed" as that term is used in distinguishing a truck from a tractor for purposes of § 4051(a)(1). The revenue ruling states that the term "primarily designed" means principally designed. It does not mean exclusively designed.

The exemption from tax provided by § 4053(2) does not extend to bodies primarily designed for general use, even though the bodies may be capable of hauling feed, seed, and fertilizer to and on farms or performing other functions described in § 4053(2). To be exempt, a body must be primarily designed for one or a combination of functions described in § 4053(2).

In the present case, Taxpayer hired an engineer to design a product for the specific purpose of hauling corn gluten. The resulting product, Trailer A, contains an unloading system that is built into and forms an integral part of the body. Trailer A's special unloading equipment is elaborate and expensive, adds substantially to the cost and weight of Trailer A, and limits its load-carrying capabilities. These features are similar to those of specially designed bodies described in Rev. Rul. 69-579 such that the purchase of Trailer A for a purpose other than hauling feed, seed, or fertilizer to, and unloading it on farms would be impractical. Further, the detailed information provided by Taxpayer highlights a number of specific features, including the unloading system, the sloped design and the anti-corrosion measures, that indicate that Trailer A is primarily designed for use on farms.

Accordingly, we conclude that the truck and semitrailer bodies described herein as Trailer A fall within the exemption provided by § 4053(2) and Taxpayer's retail sales thereof are exempt from the tax imposed by § 4051(a)(1).

This ruling is directed only to the taxpayer requesting it and applies only to Taxpayer's Trailer A described above. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Stephanie Bland
Senior Technician Reviewer, Branch 7
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
Copy for § 6110 purposes